

REMARKS

Claims 1-12, 14, and 22-29 are pending. By this Amendment, claim 1 is amended. Support for amendment to claim 1 can be found for example on page 25, lines 4-9 of the original application. No new matter is introduced.

Claim Rejections – 35 USC § 103

I. Claims 1-8, 11-12, 14, and 22-29 are rejected under 35 U.S.C. 103(a) as being unpatentable over Daniel et al (US 6,001,118) in view of Phillips et al. (US 5,972,505). The applicants respectfully submit that the teachings of Daniel in view of Phillips does not teach or suggest each and every feature of the claimed invention. Claims 2-8, 11-12, 14, and 22-29 depend from claim 1. Claim 1 is amended to specifically point out that the fibers of the claimed device are in a bundle to form a fibrous filter mat.

The Examiner cited Daniel to supply the structural elements of the device. Although the device in Fig. 17a of Daniel has a plurality of fibers, the fibers of Daniel is woven in a basket or mesh type of structure, which is clearly distinct from the bundle of fibers forming a fibrous filter mat of the amended claim 1. The Examiner specifically cited Col. 14, lines 10-13 of Daniel to assert that Daniel teaches blocking a substantial majority of particulates with a diameter greater than about 0.2 mm while allowing the passage of blood cells. Respectfully, Col. 14, lines 10-13 of Daniel refers to filter portion 344 of Figs 21-24 that is a membrane with holes, which is again distinct from the fibrous filter mat formed from a bundle of fibers of claim 1. Daniel therefore does not teach or suggest bundle of fibers forming a fibrous filter mat that blocks a substantial majority of particulates with a diameter greater than about 0.2 mm while allowing the passage of

blood cells of claim 1. Phillips does not teach or suggest a plurality of fibers in a bundle forming a fibrous mat. Phillips does not make up the deficiencies of Daniel outlined above.

The Examiner cited Phillips to supply the element of polymer fibers having surface capillaries. Respectfully, Phillips describes fibers capable of spontaneously transporting fluids that are used in absorbent articles. Phillips is completely silent with regard to use the fibers to form a porous filtration structure that is associated with a delivery tool, as in claim 1 of the present application. There is no indication in Phillips whatsoever to make embolic device with the fibers of Phillips. Phillips does not even teach or suggest the fibers are intended to be put into human vessel and therefore can not be reasonably combined with other references to render claimed invention obvious. Phillips additionally also does not teach or suggest trapping particles with size around or greater than 0.2 mm while allows the passage of blood as claimed in the present application. **Phillips simply can not be considered analogous art to the filter element of the claimed invention.**

According to MPEP 2141.01(a), to rely on a reference under 35 U.S.C. 103, it must be analogous prior art. "Under the correct analysis, any need or problem known in the field of endeavor at the time of the invention and addressed by the patent [or application at issue] can provide a reason for combining the elements in the manner claimed." *KSR International Co. v. Teleflex Inc.*, 550 U.S. ___, ___, 82 USPQ2d 1385, 1397 (2007). Thus a reference in a field different from that of applicant's endeavor may be reasonably pertinent if it is one which, because of the matter with which it deals, logically would have commended itself to an inventor's attention in considering his or her invention as a whole. Phillips is not reasonably pertinent because the matter with which it deals, logically would have not commended itself to a vascular filter design. In particular, it seems unreasonable to consider diaper references as suitable art for medical devices that are placed into the human body. With all due respect, Phillips is non-analogous art with respect to both Daniel and Applicant's claimed invention.

The Examiner cited Figs 10 and 12 of Phillips as disclosing fibers having a curled configuration. Respectfully, the Examiner's interpretation of Figs 10 and 12 of Phillips is not correct. The curling of a fiber is known in the art in general as referring to curling along the length of the fibers. The fact that the fibers' cross section has curvature as shown in Figs 10 and 12 of Phillips is irrelevant to the curling of a fiber. Additionally, the Examiner cited Fig. 19 and Col. 24, lines 28-35 of Phillips as disclosing fibers in a bundle. Respectfully, as discussed above, Phillips does not teach or suggest using the fibers in a bundle that is associated with a delivery tool and having a deployed configuration. Phillips is simply not analogous art to the filter element of the claimed invention.

Daniel in view of Phillips clearly does not teach or suggest each and every aspect of the claimed invention. Daniel in view of Phillips therefore does not render claimed invention *prima facie* obvious. Independent claim 1 is allowable over Daniel in view of Phillips. The patentability of the dependent claims follows accordingly. Withdrawal of the rejection is respectfully requested. While Applicants do not acquiesce in the assertions regarding the dependent claims, these issues are not discussed further in view of the discussion of claim 1 that makes the issue of the dependent claims presently moot.

II. Claims 9 and 10 are rejected under 35 U.S.C. 103(a) as being unpatentable over Daniel et al in view of Phillips et al. and further in view of Tu et al. (US 5,061,276). Claim 10 depends from claim 9, which depends from Claim 1. As discussed in the above section, Daniel does not teach or suggest a bundle of surface capillary fibers forming a fibrous filter mat that traps particles with size around or greater than 0.2 mm while allows the passage of blood as the claimed invention. Phillips can not be considered analogous art and does not make up the deficiencies of Daniel. Tu does not make up the deficiencies of Daniel in view of Phillips. In particular, Tu does not teach or even suggest filter structures. The teachings of Daniel, Phillips,

and Tu alone or combined therefore clearly do not render the claimed invention *prima facie* obvious. Claims 9 and 10 therefore are allowable over Daniel in view of Phillips and further in view of Tu. Withdrawal of the rejection is respectfully requested.

In view of the foregoing, it is submitted that this application is in condition for allowance. Favorable consideration and prompt allowance of the application are respectfully requested.

The Examiner is invited to telephone the undersigned if the Examiner believes it would be useful to advance prosecution.

Respectfully submitted,

/Mengmeng Fahrni/

Mengmeng Fahrni, Ph.D., Reg. #57,717

Customer No. 62274
Dardi & Herbert, PLLC
Moore Lake Plaza, Suite 205
1250 East Moore Lake Drive
Fridley, Minnesota 55432
Telephone: (404) 214-3664